BEFORE THE HONOURABLE HIGH COURT OF CHHATTISGARH AT BILASPUR.

WRIT PETITION NO. 4492/2004

PETITIONER : G.R. Kashyap, aged about 52 years, son of Shri Murit Ram Kashyap, Assistant Grade III, P.H.E. Sub Division No.1, Bilaspur (Chhattisgarh)

VERSUS

RESPONDENTS :

1. State of Chhattisgarh, through ; the Secretary, Department of Public and health Services, D.K.S. Bhawan, Raipur (C.G.)

2. The Superintending Engineer, Public health Engineering Department, Bilaspur, Division Bilaspur (Chhattisgarh).

RECEIVED-COPY 15-2-05 CLERK to A.G. BILASPUR

WRIT PETITION UNDER ARTICLE 226 R/W ARTICLE 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF CERTIORARI, MANDAMUS, PROHIBITION AND OTHER SUITABLE WRIT OR WRITS, ORDER OR ORDERS, DIRECTION OR DIRECTIONS :

XI-HC-78

(69)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ...W.P.NO..4492/04.. **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

10-5-2005

On a mention being made, the matter is taken up for hearing.

Shri R. N. Jha, counsel for the petitioner.

Shri Bhaskar Pyasi, Panel Lawyer for the State/respondents.

The petitioner has preferred this writ petition being aggrieved by the orders dated 28-9-2004 and 10-11-2004 whereby he has been transferred firstly from Bilaspur to Kirandul, District Jagdalpur and thereafter to Pandariya, District Kawardha.

The case of the petitioner is that he was appointed as Assistant Grade-III in the Public Health and Engineering Department. The petitioner is the resident of District Bilaspur and his family members are living with him. Vide order dated 31-7-2004, the petitioner was transferred from Public Health and Engineering Department Sub Division No.1 Bilaspur and the petitioner joined at the new place. However, vide order dated 28-9-2004 the petitioner was transferred to Kirandul vide Annexure-P/1 whereas, there was no post at Kirandul. Then on 19-10-2004 the Superintending Engineer, P.H.E. wrote a letter to the Executive Engineer, P.H.E. Bilaspur Division pointing out that there is no Sub Division like Kirandul. On receiving this letter, a modification order dated 10-11-2004 was issued by the Public Health and Engineering Department, Raipur, whereby the order Annexure-P/1 was amended and the petitioner was transferred to Pandariya sub division.

It has been mentioned in the petition that the said order has been passed violating the principle of natural justice, violating Articles 14 and 21 of the Constitution of India and also in the mid session. The petitioner has been transferred from one division to another division that amounts to

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

victimization and malafide and by such transfer order the promotional avenues of the petitioner are going to be affected. As per gradation list of Bilaspur Division the petitioner is likely to get promotion whereas, Pandariya is in the District of Kawardha, Raipur Division.

Return has already been filed on behalf of respondents in which it has been mentioned that the petitioner has been transferred on the ground of administrative exigency.

I have heard learned counsel for the parties.

Learned counsel for the petitioner submitted that even Pandariya place where the petitioner has been transferred vide Annexure-P/2 the post was not lying vacant and one Keshoram Verma is already working which is evident from the Annexure-P/1 at Sr. No.8. He further submitted that the post from where the petitioner has been transferred is still lying vacant, therefore, looking to the promotional avenues of the petitioner and the gradation list of Bilaspur Division and also the fact that since post is lying vacant, respondents ought to have allowed the petitioner to continue at Bilaspur. Ultimately, learned counsel for the petitioner submitted that looking to these difficulties, the petitioner may be allowed to make a detailed representation to respondent No.1 and respondent No.1 be directed to decide the representation of the petitioner considering the difficulties raised in the petition to which counsel for respondents has no objection.

Having heard learned counsel for the parties, having regard to the facts and circumstances of the case and also looking to the limited request made by learned counsel for the petitioner which appears to be just and fair, the petitioner is allowed to make a detailed representation to

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
Barve	respondent No.1 raising all the points which have been mentioned in the petition and argued by learned counsel for the petitioner within a period of 10 days from today and in turn respondent No.1 is directed to decide the representation of the petitioner within a period of one month from the date of receipt of the representation in an objective manner after considering all the points raised by the petitioner in accordance with law. With the direction aforesaid, the petition stands disposed of. Consequently, M.(W.)P. No.4834/2004 also stands disposed of. Parties are entitled for certified copy of this order. **Sd/-** **L.C.BHADOO** **Judge**	

SP/FS/2005 - 20,000